

REMARKS

Claims 1, 6-7 and 10-12 are currently pending in this application. By this Amendment, claim 1 has been amended. No new matter has been inserted. Support for the feature in claim 1 can be found in the specification at least in FIGS. 2, 4-7.

§ 103 Rejection of the Claims

Claims 1, 7 and 10-12 have been rejected under 35 U.S.C. § 103 as being unpatentable over European Patent Application 0630822, to Etesse and European Patent Application No. 0258679 to Berthelsen et al. Applicants respectfully traverse this rejection.

In response to the rejection, Applicants point out that Etesse fails to disclose or suggest a handle “having an oblong shape comprising a major axis parallel to the vertical centerline” as required by amended claim 1. The orientation of the handle as featured in amended claim 1 can be beneficial as illustrated in FIG. 4 of the present application. Specifically, when the handle is configured as “an oblong shape comprising a major axis parallel to the vertical centerline”, the handle can more easily accommodate the hand of a user when the bag is in a pouring position. However, as clearly shown in figures 1, 2, and 3 of Etesse, the handle of Etesse does not have a major axis that is parallel to the vertical centerline.

Berthelsen fails to cure the deficiencies of Etesse. Berthelsen discloses “a handle in a bag of plastics foil”. As clearly shown in the figure of Berthelsen, the Berthelsen handle has a major axis that is perpendicular to the vertical centerline. Thus, Berthelsen fails to disclose or suggest a handle “having an oblong shape comprising a major axis parallel to the vertical centerline” as required by amended claim 1. Therefore, the combination of Etesse and Berthelsen fails to disclose or suggest the invention of claim 1.

In addition, Applicants point out that objective evidence or secondary considerations, including commercial success, are relevant to the issue of obviousness and must be considered in every case in which they are present. See MPEP §2141. In this regard, Applicants draw the attention of the Examiner to the declaration of Sheldon Sturgis under 37 CFR § 1.132 signed December 12, 2006. The Sturgis declaration clearly establishes that bags including the features of claim 1 have achieved dramatic commercial success.

For at least these reasons, including those arguments previously presented, Applicants respectfully assert that claim 1 is not rendered obvious by Etesse in view of Berthelsen. As claims 7 and 10-12 are dependent on claim 1, they are also not rendered obvious by Etesse in view of Berthelsen. Applicants respectfully request that this rejection be withdrawn.

Claim 6 has been rejected under 35 U.S.C. § 103 as being unpatentable over European Patent Application 0630822, to Etesse and European Patent Application No. 0258679 to Berthelsen et al as applied to claim 1, and further in view of Japanese Patent No. 3-226460. Applicants respectfully traverse this rejection.

As described above, the combination of Etesse and Berthelsen fails to disclose or suggest the invention of claim 1. Specifically, both Etesse and Berthelsen fail disclose or suggest a handle “having an oblong shape comprising a major axis parallel to the vertical centerline” as required by claim 1. Japanese Patent No. 3-226460 fails to cure the deficiencies of Etesse and Berthelsen. Specifically, Japanese Patent No. 3-226460 fails to disclose or suggest a handle “having an oblong shape comprising a major axis parallel to the vertical centerline” as required by claim 1. Therefore, the combination of Etesse, Berthelsen and Japanese Patent No. 3-226460 fails to teach or suggest the invention of claim 1. As claim 6 is dependent on claim 1, it is also not disclosed or suggested. Applicants respectfully request that this rejection be withdrawn.

In view of the foregoing amendments, Applicants respectfully request reconsideration and allowance of the claims as all rejections have been overcome. Early notice of allowability is kindly requested.

The Examiner is respectfully requested to contact the undersigned by telephone at 612.746.4782 or by E-mail at mdeffner@pdsdlaw.com with any questions or comments.

Please grant any extension of time, if necessary for entry of this paper, and charge any fee due for such extension or any other fee required in connection with this paper to Deposit Account No. 50-3688.

Respectfully Submitted,

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